IN THE HIGH COURT OF BOMBAY AT GOA

SECOND APPEAL NO. 92 OF 2005

MRS. NINETTE RODRIGUES AND 3 ORS., ... Appellants
Versus
SHRI. FRAZER T. REBELLO AND 2 ORS., ... Respondents

Shri. P.P. Singh, for the Appellants.

Mr. M. S. Sonak For R-1

Coram:- S.A.BOBDE, J.

Date:- 19th April, 2007

ORAL JUDGMENT:

Admit.

2. Heard by consent. After hearing the matter for sometime, the following Order is passed by consent :-

3. The respondent has raised the issue that the First Appeal preferred by the appellants was itself not tenable since the trial Court had not passed any Decree. This issue was admittedly not raised and therefore not answered by the first Appellate Court. It is clear that it goes to the root of the matter. Therefore the Judgment and Order of the First Appellate Court in Regular Civil Appeal No. 21/2002 dated 19.1.2005, is hereby set aside. The Appellate Court shall, after allowing the respondent to raise an objection regarding the tenability of the appeal decide the objection before deciding the matter on merits.

Order accordingly.

S.A.BOBDE, J.

sl.